

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WHIRLPOOL CORPORATION,

Plaintiff,

v.

WATERFALL FILTER COMPANY

Defendant.

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Civil Action No. 2:15-cv-1871

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff Whirlpool Corporation (“Whirlpool”), and for its Complaint for Patent Infringement of United States Patent No. 7,000,894 against Defendant Waterfall Filter Company states as follows:

PARTIES

1. Plaintiff Whirlpool is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 2000 North M-63, Benton Harbor, Michigan.

2. Defendant Waterfall Filter Company (“Waterfall Filter”) is a corporation organized and existing under the laws of the state of Nevada. It is assigned Business ID No. NV20141444636 by the Nevada Secretary of State and has a principal place of business at 7600 Rainbow Blvd. #1044, Las Vegas, Nevada.

JURISDICTION & VENUE

3. The action arises under the patent laws of the United States, Title 35 United States Code. The jurisdiction of this Court is proper under Title 35 U.S.C. § 271, *et seq.* and Title 28 U.S.C. §§ 1331, 1332, and 1338.

4. Waterfall Filter is a distributor and retail seller of replacement water filters for refrigerators.

5. Waterfall Filter has offered for sale and sold throughout the United States Whirlpool-compatible replacement water filters that infringe United States Patent No. 7,000,894, such as water filters bearing Model No. WFC1601, which is a Whirlpool “Filter 3” design, and Model No. WFC3401, which is a Whirlpool “Filter 1” design. Waterfall Filter has offered for sale and sold such infringing products through its website, www.waterfallfilter.com, and other on-line retail outlets such as Amazon.

6. Waterfall Filter has offered for sale and/or sold Whirlpool-compatible refrigerator replacement water filters that infringe U.S. Patent No. 7,000,894, such as Model Nos. WFC1601 and WFC3401 filters, to residents and citizens of Texas who reside within this district.

7. The Court has personal jurisdiction over Waterfall Filter because it has advertised in Texas, including the Eastern District of Texas, the sale of infringing filters via the internet, and, on information and belief, Waterfall Filter has offered for sale and/or sold the infringing products to customers in the state of Texas, including the Eastern District of Texas, thereby harming Whirlpool by offering to sell and/or selling infringing products in this district.

8. Venue is proper in this district pursuant to Title 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because Waterfall Filter has committed acts of infringement in this judicial district.

COUNT I
Infringement of U.S. Patent No. 7,000,894

9. Whirlpool restates and incorporates by reference paragraphs 1 through 8 as if fully stated herein.

10. On February 21, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,000,894 (“the ‘894 patent”) entitled “Fluidic Cartridges and End Pieces Thereof.” On March 3, 2014, the USPTO issued an ex parte reexamination certificate for the ‘894 patent. Appended as Exhibit A is a true and correct copy of the ‘894 patent, inclusive of the ex parte reexamination certificate.

11. Whirlpool is the owner by assignment of the entire right, title and interest in and to the ‘894 patent, including the right to sue and recover past, present, and future damages for infringement.

12. Whirlpool manufactures products that practice the ‘894 patent, including Whirlpool Filter 1 and Filter 3 refrigerator filters, and marks such products with the ‘894 patent.

13. The validity and enforceability of the ‘894 patent has been recognized and acknowledged in Consent Judgments entered by this Court in the patent infringement cases captioned *Whirlpool Corporation v. Air 1 Supply, Inc.*, Civil Action No. 2:15-cv-1640-JRG (Document 6), *Whirlpool Corporation v. Global Parts Supply, LLC d/b/a Pandora’s OEM Appliance Parts*, Civil Action No. 2:15-cv-1563-JRG (Document 7), and *Whirlpool Corporation v. JJ Wholesale Group Inc. d/b/a Bob’s Filters and Joseph Spira*, Civil Action No. 2:15-cv-1565-JRG (Document 11).

14. Waterfall Filter has been infringing the ‘894 patent by importing, offering for sale and/or selling water filters covered by at least claims 1 and 4 of the ‘894 patent.

15. Whirlpool placed orders for replacement water filters that were filled by Waterfall Filter. Waterfall Filter supplied filters bearing Model Nos. WFC1601 and WFC3401. Photocopies that are fair and accurate depictions of the infringing water filters supplied by Waterfall Filter, Model Nos. WFC1601 and WFC3401, are appended as Exhibit B. Upon receipt, the water filters bearing Model Nos. WFC1601 and WFC3401 were analyzed as against the claims of the '894 patent, and were determined to infringe at least claims 1 and 4 of said patent pursuant to Title 35, U.S.C. § 271(a), *et. seq.*

16. Waterfall Filter's offers for sale and sales of the replacement refrigerator water filters covered by the '894 patent were without permission, authority, or license from Whirlpool. Further acts of infringement, unless enjoined by this Court, will continue to damage Whirlpool and cause irreparable harm to Whirlpool.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Whirlpool respectfully requests the following relief:

- a. That the Court enter a judgment that Waterfall Filter has infringed the '894 patent;
- b. That the Court enter a judgment that the '894 patent is not invalid;
- c. That the Court enter a judgment that the '894 patent is enforceable;
- d. That the Court enter a permanent injunction preventing Waterfall Filter and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from engaging in infringing activities with respect to the '894 patent;
- e. That the Court award damages for the infringement to which Whirlpool is entitled;

- f. That the Court award interest on the damages; and
- g. For any and all such other relief as this Court may deem appropriate.

Dated: November 24, 2015

Respectfully submitted,

By: /s/ *Melissa R. Smith*
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WHIRLPOOL CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on November 24, 2015.

/s/ *Melissa Smith*
Melissa Smith